

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

3M INNOVATIVE PROPERTIES)
COMPANY)
)
and)
)
3M COMPANY,)
)
Plaintiffs,)
)
v.)
)
CARDINAL HEALTH 200, INC.,)
CYPRESS MEDICAL PRODUCTS LP,)
CYPRESS MEDICAL PRODUCTS, LLC,)
and CYPRESS MEDICAL PRODUCTS,)
INC.)
)
Defendants.)

)

Civil No. 05-837 MJD/SRN

CONSENT JUDGMENT

WHEREAS, plaintiffs 3M Innovative Properties Company and 3M Company (collectively, “3M”) have charged defendant Cardinal Health 200, Inc. (“Cardinal”) with infringement of United States Patent No. 5,496,605 (“the ‘605 patent”) by virtue of Cardinal Health 200 Inc.’s using, importing into the United States, offering for sale and/or selling perforated linerless nonwoven surgical tape identified in the First Amended Complaint filed in this action as Allegiance® Soft Cloth Surgical Tape (the “Product”);

WHEREAS, Cardinal represents and warrants that it has not manufactured any Product, and has only resold Product manufactured by defendants Cypress Medical Products, L.P. Cypress Medical Products, LLC and Cypress Medical Products, Inc. and supplied to Cardinal for resale;

WHEREAS, the Court has been advised that the Parties have consented to entry of this Judgment;

WHEREAS, having examined the terms of this Consent Judgment, and having concluded that its provisions are appropriate to settle and dispose of all disputes between 3M and Cardinal in this action;

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. This Court has jurisdiction over the subject matter of this action, and personal jurisdiction over Cardinal. Venue is proper in this District with respect to Cardinal.

2. 3M Innovative Properties Company owns the '605 patent, 3M Company is the exclusive licensee, and plaintiffs have standing to bring this action.

3. Cardinal hereby irrevocably waives the right to challenge in any court, in the United States Patent and Trademark Office, or in any other forum, that the '605 patent is invalid or unenforceable, unless Cardinal asserts invalidity and/or unenforceability as a defense to, or in the PTO as a result of, a future infringement action brought by 3M against Cardinal. Cardinal hereby irrevocably waives the right to directly or indirectly aid, assist or participate in any action by any other party contesting the validity and/or enforceability of the '605 patent unless 3M commences a future infringement action against Cardinal.

4. Cardinal has infringed the '605 patent by using, offering for sale, and/or selling the Product.

5. Cardinal and its officers, agents, servants, and employees, and those persons in active concert or participation with them who receive actual notice hereof, are hereby permanently enjoined from infringing the '605 patent. Cardinal shall cease immediately any activities that directly or indirectly constitute infringement of the '605 patent. This injunction shall not extend beyond the date of the expiration of the '605 patent.

6. Cardinal voluntarily relinquishes its right to appeal this Judgment, or to challenge it in this Court or in any subsequent legal proceeding.

7. If Cardinal is found by the Court to be in contempt of, or otherwise to have violated this Judgment, 3M will suffer irreparable harm. Thus, in addition to the other remedies available to 3M for contempt or violation of this Judgment, Cardinal consents to entry of a Temporary Restraining Order and a Preliminary Injunction, together with an award of 3M's actual damages resulting from any infringement.

8. Other than as set forth in Paragraph 7 of this Judgment, the Parties shall each bear their own attorneys' fees, costs and expenses in this action.

9. This Court shall retain jurisdiction over this action and the parties to this action for purposes of enforcement of this Judgment.

IT IS SO ORDERED:

Dated: November 7, 2005

s/ Michael J. Davis

The Honorable Michael J. Davis
United States District Judge

AGREED AS TO FORM AND SUBSTANCE:

By:

s/Kevin Rhodes

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